

1 19 NCAC 02E .0610 is proposed for adoption as follows:
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3 **19A NCAC 02E .0610 CONDITIONS OF SELECTIVE VEGETATION REMOVAL PERMIT FOR**
4 **OUTDOOR ADVERTISING OR PERMIT REQUIREMENTS**

5 The following apply to the conditions of selective vegetation removal permit for outdoor advertising or permit
6 requirements:

7 (1) Selected vegetation, as defined in 136-133.1(b) may be allowed to be cut, thinned, pruned or
8 removed in accordance with the standards set out in G.S. 136-133.4.

9 (2) The permittee shall indemnify and hold harmless the North Carolina Department of
10 Transportation, its employees, attorneys, agents, and contractors against any and all claims or causes of
11 action, and all losses therefrom, arising out of or in any way related to permittee's operation.

12 (3) The permittee shall furnish a Performance and Indemnity Bond or certified check or cashier's
13 check made payable to North Carolina Department of Transportation for the minimum sum of two
14 thousand dollars (\$2,000). The bond, certified check or cashier's check shall cover all restoration of the
15 right of way to the condition prior to the occurrence of the damage caused by the permittee or the
16 permittee's agent, if damage occurs during the permitted selective vegetation removal. The bond or certified
17 check or cashier's check is required before each permit to cut vegetation is issued. The bond shall run
18 concurrently with the permit. The bond shall be released after a final inspection of the work by NCDOT
19 reveals that all work provided for and specified by the permit is found to be completed and all damages to
20 the right of way, including damage to fencing and other structures within the right-of-way, have been
21 repaired or restored to the condition prior to the occurrence of the damage caused by the permittee or the
22 permittee's agent .

23 (4) Companies that plan to apply for two or more permits may provide continuing bonds for a
24 minimum of one hundred thousand dollars (\$100,000) and this type of bond shall be kept on file by the
25 Department.

26 (5) If the work is to be performed by any entity other than the sign owner or permittee, either the
27 permittee or the other entity must furnish the required bonding as described in this Section, for all work
28 provided for and specified by the permit. Required forms for all bonds are available upon request from the
29 Department. Bonds are to be furnished with the Selective Vegetation Removal application form to the
30 appropriate official assigned to receive selective vegetation removal applications at the local NCDOT
31 Division of Highways Office.

32 (6) The permittee shall also provide proof of liability insurance of a minimum coverage of five
33 million dollars (\$5,000,000). Whoever performs the work, the permittee, his contractor or agent, shall
34 maintain all legally required insurance coverage, including worker's compensation and vehicle liability in
35 the amounts required by and according to North Carolina law. The permittee, his contractor and agent, are
36 liable for any losses due to the negligence or willful misconduct of his agents, assigns, and employees.. The
37 permittee may, in lieu of providing proof of liability insurance as described in this paragraph, be shown as

1 an additional insured on the general liability policy of the approved contractor or agent to perform the
2 permitted work on condition that the contractor or agent's policy is for a minimum coverage of five million
3 dollars (\$5,000,000) and the permittee provides proof to the Department of the coverage. The permittee or
4 contractor or agent providing the coverage shall also name the Department as an additional insured on its
5 general liability policy and provide the Department with a copy of the certificate showing the Department
6 named as an additional insured. Regardless of which entity provides the proof of general liability insurance,
7 the required limit of insurance may be obtained by a single general liability policy or the combination of a
8 general liability and excess liability or umbrella policy.

9 (7) The permittee shall provide a document verifying the requested selective vegetation removal site
10 location in relationship to corporate limits of a municipality, per GS 136-133.1 (a) (5). The document shall
11 be a current geographic information system map of the nearest municipality, with color-coded boundary
12 lines and a corresponding key or legend indicating corporate limit and territorial jurisdiction boundaries
13 and indicating the precise location of the outdoor advertising structure. The permittee shall also provide the
14 property tax identification number for the parcel on which the outdoor advertising structure is located. The
15 Department may require additional information if the boundary or sign location remains in question.

16 (8) The permittee shall perform site marking of the maximum vegetation cut or removal zone. The
17 applicant shall mark the proper permitted cutting distances according to GS 136-133.1 (a) (1) – (6). Points
18 A & B along the right-of-way boundary (or fence if there is a control of access fence) are to be marked with
19 visible flagging tape. Points C, D, & E along the edge of the pavement of the travel way are to be marked
20 with spray paint, including the actual distances. If the sign is located at an acceleration or deceleration
21 ramp, points C, D, & E shall be marked along the edge of the pavement of the travel way of the ramp
22 instead of the mainline of the roadway.

23 (9) The permittee shall perform tagging of trees. The permittee shall tag with a visible material or flagging
24 all trees, including existing trees and other trees that are, at the time of the selective vegetation removal
25 application, greater than four inches in diameter as measured six inches from the ground and requested to
26 be cut, thinned, pruned, or removed. The applicant shall tag the existing trees (the exact same existing trees
27 as on the site plan) that are desired to be cut, thinned, pruned, or removed with visible material or flagging
28 of a contrasting color. The permittee shall denote on the site plan or on the application the colors of
29 flagging used to mark each category of trees.

30 (10) If there are existing trees requested to be removed, before any work can be performed under a
31 selective vegetation removal permit the permittee must;

32 (A) Submit the reimbursement to the Department pursuant to G.S. 136-93.2 in a cashier's or
33 certified check;

34 (B) Fully disassemble two non-conforming outdoor advertising signs and their supporting
35 structures and return the outdoor advertising permits tags to the Department; or

36 (C) Obtain Departmental approval for the replanting plan in accordance with 2E NCAC.0611.

1 (11) Should the vegetation removal permit be approved and tree removal is scheduled, for all disputed
2 trees the sign owner shall cut such tree stumps in a level, horizontal manner uniformly across the stump at a
3 four inch height, so that tree rings can be counted by the applicant or the Department to determine the age
4 of the tree.

5 (12) After a tree is removed and the applicant or the Department discovers, based on the number of
6 rings in the tree stump, an error in the tree survey report or site plan, the Department shall request an
7 amendment to the tree survey report or site plan, and a redetermination pursuant to G.S. 136-133.1(d) and
8 (e) shall be made by the Department and the applicant shall be subject to that redetermination.

9 (13) If any conservation easements or State or Federal rules, statutes or permits restrict an applicant from
10 cutting, thinning, pruning or removing any vegetation from any portion but less than the entirety of the
11 maximum vegetation cutting or removal zone, the permittee shall comply with applicable rules, statutes or
12 permits for those portions of vegetation. If applicable easements, State or Federal rules, statutes, or permits
13 allow certain degrees and methods of cutting, thinning, pruning, or removal for portions of vegetation, the
14 permittee shall comply with State or Federal rules, statutes, or permits including equipment type for those
15 portions of vegetation, including conservation easements. Portions of the maximum cutting or removal
16 zone not within a conservation easement nor regulated by State or Federal rules, statutes or permits
17 regulating vegetation removal and other activities shall be governed by standards set out in G.S. 136-133.4.

18 (14) The permittee must adhere to erosion control requirements, according to North Carolina General
19 Statutes, Article 4, Chapter 113A entitled: Sedimentation Pollution Control Act of 1973.

20 (15) A Division of Highways Inspector may be present while work is underway. The presence or
21 absence of a Division of Highways inspector at the work site does not lessen the permittee's responsibility
22 for conformity with the requirements of the permit and all applicable General Statutes and rules. Should the
23 inspector fail to point out work that does not conform with the requirements, it does not prevent later
24 notification to the permittee that the work is not in compliance with the permit.

25 (16) A selective vegetation removal permit must be secured for each applicable outdoor advertising site
26 prior to performing any vegetation removal work.

27 (17) Should the Division Engineer ("Engineer") or his representative observe unsafe operations,
28 activities or conditions, he shall suspend work. Work shall not resume until the unsafe conditions or
29 activities have been eliminated or corrected. Failure to comply with any of the requirements for safety and
30 traffic control of this permit shall result in suspension of work.

31 (18) The applicant must certify that he or she has permission from the adjoining landowner(s) to access
32 their private property for the purpose of conducting activities related to the selective vegetation removal
33 permit application.

34 (19) The Permittee or its contractor or agent must have a copy of the Selective Vegetation Removal
35 Permit on the work site at all times during any phase of selective vegetation cutting, thinning, trimming,
36 pruning, removal, or planting operations.

1 (20) The permittee or its contractor or agent shall take appropriate measures to locate and protect utilities
2 within the highway right-of-way within the work area of the selective vegetation removal zone. The
3 permittee shall be responsible for restoration of any losses or damages to utilities caused by any actions of
4 the permittee or its contractors or agents to the satisfaction of the utility owner

5 (21) Permits are valid for a period of one year and the permittee may cut, thin, prune, or remove
6 vegetation more than one time during the permit year. If the applicant applies for and is approved for
7 another selective vegetation removal permit during an existing permit year, the previous permit shall
8 become null and void at the same time the new permit is issued.

9 (22) The permittee shall provide to the appropriate Department official, a 48-hour notification before
10 entering the right-of-way for any work covered by the conditions of the permit. The permittee shall
11 schedule all work with the appropriate Department official. The permittee shall notify the Department in
12 advance of work scheduled for nights, weekends and holidays. The Department reserves the right to modify
13 the permittee's work schedule for nights, weekends, and holidays. When the Department restricts
14 construction in work zones for the safety of the traveling public, the Department shall deny access to the
15 right-of-way for selective vegetation removal.

16 (23) If work is planned in an active work zone, the permittee shall receive written permission from the
17 contractor or the Department (if the Department's employees are performing the work). The permittee shall
18 provide the Division Engineer with a copy of the written permission.

19 (24) Sites with vegetation not presenting a hazard from falling tree parts and follow-up work shall be
20 restricted to individual and manual-operated power equipment and hand-held tools .

21 (25) The Department may allow use of power-driven vegetation removal equipment (such as
22 excavator-based land clearing attachments, skid-steer cutters, and bucket trucks) and access from the
23 private property side to the right-of-way. Tree removal, which presents a hazard from falling tree parts,
24 shall be performed in accordance with International Society of Arboriculture standards. Written
25 authorization must be obtained from the Department for use of power-driven vegetation removal equipment
26 as well as for access to move resources from the private property to the right-of-way. The applicant must
27 provide information on the permit application for which type(s) of equipment and access is requested. The
28 applicant shall also provide contractor qualifications for the Department.

29 (26) The Department shall determine the traffic control signage that is required. The permittee shall
30 furnish, erect, and maintain the required signs as directed by the Department.

31 (27) The height of stumps remaining after tree removal shall not exceed four inches above the
32 surrounding ground level. The work site shall be left in a clean and orderly appearance at the end of each
33 workday.

1 (28) Upon completion of all work, the Department shall notify the Division Engineer who shall notify
2 the Permittee in writing of acceptance, terminate the permit, and return the Performance and Indemnity
3 Bond or certified or cashier's check to the permittee. For replanting work, a different bond release schedule
4 shall be applicable according to 19A NCAC 02E. 0611(g)(8).

5 (29) Pursuant to 136-133.4(e), willful failure to substantially comply with all the requirements
6 specified in the permit, unless otherwise mutually resolved, shall result in immediate and summary
7 revocation of the selective vegetation removal permit and forfeiture of any or all of the Performance and
8 Indemnity Bond or check as determined by the Division Engineer based on conditions stated in this Rule.

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11 History Note: Authority G.S. 136-18(5); 136-18(7); 136-18(9); 136-93; 136-130; 136-133.4
12 Temporary Adoption Eff. March 1, 2012
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